

APPENDIX**I.**

As excerpts from the hearings before the Judiciary Committee upon the subject of Municipal Bankruptcy are printed in the margin of the decision of the Circuit Court of Appeals, it is believed that the Court will be interested in the following extracts from the hearings before the Special Subcommittee of Congress on Bankruptcy and Reorganization held February 14, 15 and 16, 1940:

On February 14, 1940 the Subcommittee of the House Committee on the Judiciary convened for public hearing on H. R. 8016 which bill as redrafted was submitted by Mr. Cannon. In his redrafted bill Mr. Cannon proposed that subsection (j) of Section 83 of such act, as amended and supplemented, be amended to read as follows: (pages 2 and 3)

“(j) * * * The confirmation of any such plan of composition shall not be denied on the ground that the plan submitted for confirmation is at variance with the original plan, which is partially completed or executed, if the terms of the plan submitted for confirmation are not less favorable to the creditors than the terms of such original plan, nor on the ground that partial completion of such original plan has made it possible for the petitioner to meet its debts as they mature: Provided, That such inability to meet its debts existed prior to the time such original plan was partially completed.”

At later hearings on February 14, 15 and 16 the bill H. R. 8016 was amended, reintroduced and finally passed as H. R. 9139. This amended bill does not incorporate the proposed amendment of Section 83 of the Act and does not mention or amend subsection (j).

The bill was approved June 28, 1940, U. S. Code Cong. Service Advance Sheets 6, p. 656 and is printed

infra. The proposed amendment by Mr. Cannon in H. R. 8016 was not the first effort to make subsection (j) retroactive, as apparently it was then recognized it was not retroactive.

The Judiciary Committee of the Senate reported on H. R. 6505 "To make proceedings taken under the Act speak as of the date of the original plan of settlement" on July 20th, 1939, and in this connection the report of the House Committee on pages 234 and 235 contains the following:

**"MEMORANDUM RE: H. R. 6505 AND OTHER
MEASURES THAT MAY BE INTRO-
DUCED TO AMEND MUNICIPAL BANK-
RUPTCY PROVISIONS OF BANKRUPTCY
ACT**

"H. R. 6505 proposes four amendments; Senate committee recommends an additional amendment numbered 5 below:

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"(5) To make proceedings taken under the Act speak as of the date of the original plan of settlement.

* * * * *

"This proposal is to clarify present ambiguities by fixing the date as of which proceedings under the act shall speak. The debtor city establishes its insolvency at the inception of negotiations, say in 1936; and that in 1936 it arranged a settlement with two-thirds of its creditors, as a result of which it is perhaps no longer insolvent. The city in 1940 seeks to enforce this partially completed settlement against the minority. But the city is no longer insolvent, though it would become so again if the minority were permitted to pursue their strict legal remedies. The proposed amendment would remove this ambiguity in the statute without changing its evident intention."

II.

See also the amendments to Sections 81, 83(b) and 84 of the Municipal Bankruptcy Act approved June 28, 1940, H. R. 9139, Chapter 438, 3d Session, Public No. 669, 76 Congress, U. S. Code Congressional Service, Advance Sheets No. 6, page 656.

III.

Chapter 15,772 Laws of Florida, 1931, Vol. 1, p. 1368, being the Florida Refunding Act, contains the following Sections:

"Section 2. Each County, City, Town, Special road and bridge district, special tax school district, and other taxing districts in this State, herein sometimes called a unit, is hereby authorized to issue, pursuant to a resolution or resolutions of the governing body thereof (meaning thereby the board or body vested with the power of determining the amount of tax levies required for taking the taxable property of such unit for the purpose of such unit) and either with or without the approval of such bonds at an election, except as may be required by the Constitution of the State, bonds of such unit for the purpose of refunding any or all bonds, coupons, or interest on any such bonds, or coupons or paving certificates of indebtedness or interest on any such paving certificates of indebtedness, now or hereafter outstanding, or any other funded debt, all of which are herein referred to as bonds, whether such unit created such indebtedness or has assumed, or may become liable therefor, and whether indebtedness to be refunded has matured or to thereafter become matured."

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"Section 8. Bonds issued under this Act may be exchanged for not less than an equal principal amount and/or accrued interest of indebtedness to be retired thereby, including indebtedness not yet

due, if the same be then redeemable or if the holders thereof be willing to surrender the same for retirement, but otherwise shall be sold and the proceeds thereof shall be applied to the payment of such indebtedness and/or accrued interest due or redeemable which may be so surrendered."

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"Section 11. In case of refunding bonds which are not exchanged for bonds outstanding but are sold, only such amount thereof shall be delivered as is necessary to provide for the payment of matured bonds and legally accrued interest and of such unmatured bonds as the holders thereof have agreed in writing to surrender upon payment of a sum not exceeding par and legally accrued interest."

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"Section 14. As hereinbefore provided the refunding bonds instead of being sold may be exchanged for bonds or for interest on bonds or interest on overdue interest on bonds to refund which they are issued. The principal and accrued interest of the refunding bonds shall not exceed the amount of the obligations refunded."

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"Section 16. The resolution authorizing the refunding bonds may contain an agreement on the part of the unit to provide a sinking fund for such bonds, and said resolution may provide for payments of such sinking fund, the investment thereof, the administration thereof, and the application thereof to the payment, purchase and redemption of the refunding bonds."

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"Section 17. The resolution authorizing refunding bonds may assign, pledge, or set aside as a trust for the payment of principal or interest of refunding bonds or for a sinking fund for the

bonds, subject to prior liens or contract obligations, and on, or subject to, such terms and conditions as may be stated, any unpaid taxes or assessments whether due or to grow due, and any revenues due or to grow due, or proceeds of sale of improvements or properties of the unit. The resolution authorizing the bonds may contain agreement to collect and pay over the moneys derived from such source."

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"Section 18. The resolution authorizing the refunding bonds may pledge to the payment of principal and interest of such refunding bonds or to a sinking fund for the bonds, a fixed proportion, or a proportion to be determined from time to time as provided, in said resolution, of the moneys from time to time collected either by taxation of any kind, whether upon real or personal property, or collected from other revenues or receipts of the unit, and such resolution may provide that the said fixed proportion or the proportions so determined out of each dollar collected by the unit shall be applied to the payment of the principal or interest of the refunding bonds, or be paid into or set aside as a sinking fund for the bonds."

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"Section 19. The resolution authorizing the bonds may provide that the unit shall first set aside out of the tax collections the amount required in any year for the payment of principal and interest of refunding bonds and for the sinking fund for the bonds, before any tax collections shall be set aside or applied to the payment of any bonds of the unit may thereafter be issued except bonds thereafter issued to pay or refund bonds then outstanding."

